IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1041 OF 2004
IN
INCOME TAX APPEAL (LDG.) NO. 361 OF 2004

The Commissioner of Income-tax. ... Appellant.

V/s.

M/s.Saffron Surgical P.Ltd. ... Respondent.

A.D.Kango for the appellant.

CORAM : DR.S.RADHAKRISHNAN and V.C.DAGA, JJ.

DATED : 11th June 2007.

P.C. :

. Heard learned counsel for the appellant and learned counsel for the respondent. Perused notice of motion and affidavit filed in support thereof.

2. By this notice of motion, the appellant is seeking condonation of 237 days in filing appeal. The explanation for delay given by the appellant is thus:-

> The delay has occurred due to restructuring of the Department and due to the same there was delay in locating the files pertaining to the above matter in spite of the best efforts from the concerned department personnel.

3. The above is a routine and stereotype reason furnished by the Revenue in almost all the

applications for condonation of delay though restructuring of the department has actually taken place in the year 2001 whereas this appeal is filed in the year 2004. The affidavit in support is cryptic and does not give any particulars and reasons. Therefore, on 30th April, 2007, appellant was granted time to file better affidavit.

4. Despite the matter having been adjourned supplementary affidavit setting out sufficient cause for delay has not been filed. This attitude of the department is being noticed daily in number of cases with no improvement. This Court cannot show more indulgence than what was shown in this case and number of such other cases. Revenue cannot be given any special treatment. All litigants before this Court are to be treated similarly. In spite of this, we, in our opinion, have given much latitude which the appellant- Revenue failed to encash.

5. In the above circumstances, we are left with no alternative but to dismiss the notice of motion for non-compliance of order and want of sufficient cause in filing the appeal belatedly.

6. In the result, notice of motion stands dismissed. In view of dismissal of notice of motion, appeal papers be consigned to record.

(V.C.DAGA, J.) (DR.S.RADHAKRISHNAN, J.)